

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-04-IH-0469
)	
MCI, Inc.)	Account No. 200532080120
)	
Compliance with Rules Regarding)	FRN No. 0010856284
Thousands-Block Number Pooling)	
)	

ORDER

Adopted: February 2, 2005

Released: February 3, 2005

By the Chief, Enforcement Bureau:

1. In this Order, we adopt a Consent Decree terminating an investigation into possible violations by MCI, Inc. ("MCI") of sections 52.15 and 52.20(c) of the Commission's rules,¹ with respect to thousands-block number pooling in certain rate centers.²

2. The Enforcement Bureau ("Bureau") and MCI have negotiated the terms of a Consent Decree that would terminate the Bureau's investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. We have reviewed the terms of the Consent Decree and evaluated the facts before us. We believe that the public interest would be served by approving the Consent Decree and terminating the investigation.

4. Accordingly, IT IS ORDERED, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and the authority delegated by section 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the attached Consent Decree IS ADOPTED.

5. IT IS FURTHER ORDERED that the above captioned investigation IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon
Chief, Enforcement Bureau

¹ 47 C.F.R. §§ 52.15, 52.20(c).

² Letter dated September 29, 2004 from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Michael Cappellas, MCI ("September 29 LOI).

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CONSENT DECREE

I. INTRODUCTION

1. The Enforcement Bureau (“Bureau”) of the Federal Communications Commission (the “FCC” or the “Commission”) and MCI, Inc. (“MCI”), by their authorized representatives, hereby enter into this Consent Decree to resolve an investigation (the “Investigation”) by the Bureau regarding alleged violation by MCI of Sections 52.15 and 52.20(c) of the Commission’s rules,¹ with respect to thousands-block number pooling in certain rate centers. The Investigation was undertaken pursuant to sections 4(i), 4(j), 218, and 403 of the Communications Act.²

II. DEFINITIONS

2. For the Purposes of this Consent Decree, the following definitions shall apply:

(a) “Adopting Order” means an Order of the Bureau adopting the terms and conditions of this Consent Decree without change, addition or modification.

(b) “MCI” or the “Company” means MCI, Inc. and any affiliate, d/b/a, predecessor-in-interest, parent companies and any direct or indirect subsidiaries of such parent companies, or other affiliated companies or businesses, and their successors and assigns.

(c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.

(d) “Communications Act” or “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*

(e) “Effective Date” means the date on which the Bureau releases the Adopting Order.

(f) The “FCC” or the “Commission” means the Federal Communications Commission.

(g) “Investigation” means the investigation commenced by the Bureau’s Letter of Inquiry dated

¹ 47 C.F.R. §§ 52.15, 52.20(c).

² 47 U.S.C. §§ 154(i), 154(j), 218 and 403.

September 29, 2004, regarding MCI's alleged noncompliance with Sections 52.15 and 52.20(c) of the Commission's rules.

(h) "Parties" means MCI and the Bureau.

III. BACKGROUND

3. On September 29, 2004, the Enforcement Bureau issued a Letter of Inquiry ("LOI") to MCI and initiated an investigation concerning MCI's compliance with thousands-block number pooling regulations, and requested that MCI provide certain documents and other information with respect to 71 specifically identified rate centers.³ MCI submitted its initial response to the LOI on October 27, 2004, and filed supplements to that response on November 9, 2004 and December 9, 2004.⁴

4. Section 52.20(b) of the Commission's rules provides that all carriers, except those exempted by the Commission, must participate in thousands-block number pooling where the Commission implements such a system, and in accordance with a Commission-established framework and schedule.⁵ Section 52.15 of the Commission's rules provides, *inter alia*, that in areas where thousands-block numbering pooling has been implemented, telecommunications carriers that are required to participate must submit to the North American Numbering Plan Administrator ("NANPA") semi-annual forecasts of their yearly numbering resource requirements at the thousands-block level for each rate center.⁶

5. MCI states that it submitted a Numbering Resource Utilization and Forecast ("NRUF") Report, FCC Form 502, at the thousands-block level to the NANPA for the reporting periods ending December 31, 2003 and June 30, 2004 for each rate center in which MCI has numbering resources. MCI also states that the thousands-block forecast data was subsequently entered into the Pooling Administration System ("PAS") and thereby submitted to the Pooling Administrator ("PA").⁷

6. Section 52.20(c)(1) of the Commission's rules requires all service providers that are required to participate in thousands-block number pooling to donate thousands-blocks with ten percent or less contamination to the thousands-block number pool for the rate center within which the numbering

³ See Letter dated September 29, 2004 from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC, to Michael Cappellas, MCI ("September 29 LOI").

⁴ See Letter dated October 27, 2004 from Allison M. Ellis, Associate Litigation Counsel, MCI, Inc. to Mika Savir, Attorney, Investigations and Hearings Division, Enforcement Bureau, FCC ("MCI Response"); Letter dated November 9, 2004 from Allison M. Ellis, Associate Litigation Counsel, MCI, Inc. to Mika Savir, Attorney, Investigations and Hearings Division, Enforcement Bureau, FCC ("MCI First Supplement"); Letter dated December 9, 2004 from Allison M. Ellis, Director, Compliance, MCI, Inc. to Diana Lee, Attorney, Investigations and Hearings Division, Enforcement Bureau, FCC ("MCI Second Supplement").

⁵ 47 C.F.R. § 52.20(b).

⁶ 47 C.F.R. § 52.15.

⁷ See MCI Response at 1-2. MCI states that, based on its understanding of appropriate practices, in submitting its thousands-number block forecasts electronically to the PA using the Pooling Administration System ("PAS"), in most cases MCI left any automatically-displayed zero in place for those rate centers in a Numbering Plan Area ("NPA") in which it did not expect to need numbers instead of manually re-entering a zero itself. MCI First Supplement at 1. MCI states that the PA apparently interpreted this process as a failure to submit a report for those rate centers. *Id.* at 2. MCI states that it is now re-submitting forecasts with manually entered zeros for each of the relevant 71 rate centers for which no increase in demand was anticipated. *Id.* at 2.

resources are assigned.⁸ Notwithstanding the contamination level of the block, the Commission allows service providers to retain at least one thousands-block per rate center as an initial or footprint block, as well as enough thousands-blocks to meet their six-month projection forecasts for the rate center.⁹ The Commission otherwise allows service providers to maintain an inventory of telephone numbers to meet their needs for six months.¹⁰ Section 52.15(g)(3)(iii) of the Commission's rules requires service providers to maintain no more than a six-month inventory of telephone numbers in each rate center or service area in which they provide telecommunications service.¹¹

7. MCI states that, following the commencement of Commission-mandated number pooling in 2001, it conducted an inventory of its numbers to determine its initial six-month numbering inventory requirements for each NPA entering the pool. MCI further states that it has subsequently continued to review its inventory requirements and between January and August 2004 donated or returned approximately 56 thousands-blocks of numbers to the rate center within which the numbering resources are assigned.¹² Additionally, after receiving the September 29 LOI, MCI conducted an additional audit and returned or donated an additional 656 thousands-blocks of numbers for the 71 rate centers identified in the September 29 LOI.¹³ In response to the Bureau's investigation of its practices, MCI has confirmed its willingness to review and revise its inventory management methods for all its rate centers.

IV. AGREEMENT

8. MCI agrees that the Commission and its delegated authority, the Bureau, have jurisdiction over it and the matters contained in this Consent Decree and the authority to enter into and adopt this Consent Decree.

9. MCI represents and warrants that it is the properly named party to this Consent Decree and is solvent and has sufficient funds available to meet fully all financial and other obligations set forth herein. MCI further represents and warrants that it has caused this Consent Decree to be executed by its authorized representative, as a true act and deed, as of the date affixed next to said representative's signature. Said representative and MCI respectively affirm and warrant that said representative is acting in his/her capacity and within his/her authority as a corporate officer of MCI, and on behalf of MCI and that by his/her signature said representative is binding MCI to the terms and conditions of this Consent Decree.

10. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding regarding any compliance or noncompliance with the requirements of the Act and the Commission's orders and rules. The Parties agree that this Consent Decree is for settlement

⁸ 47 C.F.R. § 52.20(c)(1). In the 310 and 909 area codes in California, the contamination level is twenty-five percent or less. *See Numbering Resources Optimization, Petition of the California Public Utilities Commission for Waiver of the Federal Communications Commission Contamination Threshold Rule*, Order, 18 FCC Rcd 16860 (2003).

⁹ 47 C.F.R. § 52.20(c)(2); *Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574, 7661-61 ¶ 191 (2000) ("NRO Order").

¹⁰ 47 C.F.R. § 52.20(c)(2); *NRO Order*, 15 FCC Rcd at 7660 ¶ 189.

¹¹ 47 C.F.R. § 52.15(g)(3)(iii).

¹² *See* MCI Response at 3-4 and Exhibits A and D.

¹³ *See* MCI Second Supplement at 1.

purposes only and that by agreeing to this Consent Decree, MCI does not admit or deny any wrongdoing, non-compliance, or violation of the Act or the Commission rules in connection with the matters that are the subject of this Consent Decree.

11. In consideration for the termination of the Investigation in accordance with the terms of this Consent Decree, MCI shall make a voluntary payment to the United States Treasury, without further protest or recourse to a trial *de novo*, in the amount of one hundred thousand dollars (\$100,000.00) within ten (10) business days after the Effective Date of the Adopting Order. The payment may be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the Acct. No. and FRN No. referenced in the Adopting Order. Payment by check or money order must be mailed to Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, IL, 60673-7482. Payment by overnight mail must be sent to Bank One/LB 73482, 525 West Monroe, 8th Floor Mailroom, Chicago, IL 60661. Payment by wire transfer must be made to ABA Number 071000013, receiving bank Bank One, and account number 1165259.

12. In order to resolve and terminate the Investigation, and to ensure compliance with the Commission's thousands-block number pooling rules, MCI shall implement the actions described below, *i.e.*, a Compliance Plan:

(a) Forecasts & Reports.

MCI will file telephone numbering forecasts and reports in compliance with the Industry Numbering Committee's "Thousands-Block Number (NXX-X) Pooling Administration Guidelines" (and any amendments thereto or replacement thereof).

(b) Initial Audit of Remaining Potential Donations of Thousands-Blocks

1. **Initial Audit.** A number pooling audit team ("Audit Team") will review all thousands-blocks in all the remaining 1,445 rate centers in addition to those 71 rate centers identified in the September 29 LOI. The Audit Team will review MCI's six-month inventory requirements and identify all thousands-blocks that are potentially subject to donation or return pursuant to applicable Commission regulations.
2. **Audit Review Process.** MCI's Number Resource Management Support Team, a group that supports both MCI's Numbering and Service Delivery Support Division and its Number Administration Division by verifying and auditing numbering data, will conduct a second review of all of the potentially donatable blocks the Audit Team has identified to verify that each block identified does not exceed applicable federal and state contamination thresholds.
3. **Confirmation and Referral Process.** Upon completion of the Number Resource Management Support Team's audit review described in 12(b)(2) above, the Audit Team will confer with the Number Resource Management Support Team to confirm the eligibility of the identified blocks. The Audit Team will then make an appropriate referral of eligible blocks to the Code Administration Team to donate and/or return the thousands blocks to the Pooling Administrator.
4. **Donation and Return.** MCI's Code Administration Team will make all appropriate donations and returns to the Pooling Administrator on a rolling basis, as such eligible blocks are identified.

5. **Supervision and Tracking.** MCI shall designate a Project Manager in MCI's Numbering and Service Delivery Support Division to supervise directly the activities described in this paragraph. The Project Manager will track the progress of the various teams described above and will provide a weekly report of the percent of completion and identify any issues that MCI's senior management may need to address. Each week a Manager in MCI's Numbering Administration Division, a subdivision of MCI's Numbering and Service Delivery Support Division that has primary responsibility for acquiring, monitoring, and managing MCI's numbering resources, will review and report the status of the audit to a Senior Manager in MCI's Numbering and Service Delivery Support Division.
6. **Deadline.** The review and donation process described above shall be completed on or before June 30, 2005 (the entire period from the Effective Date until July 1, 2005 constituting the "Donation Period"). With no less than 30 days notice prior to June 30, 2005, MCI may seek, and the Bureau will consider, an additional 30-day extension of time for good cause shown.

(c) Audits of Potential Donations of Thousands-Blocks Going Forward

MCI will perform number resource audits consistent with the process detailed above, as appropriate. At the conclusion of each audit, MCI will donate or return eligible blocks in excess of its forecasted six-month capacity, following, where appropriate, the preparation and filing of MCI's NRUF reports and the Pooling Block Forecasts submitted to the Pooling Administrator via the PAS.

(d) Compliance Training Program.

MCI's staff involved in performing number resources administrative duties has received additional training concerning these duties since the September 29 LOI. MCI shall establish a thousands-block number pooling compliance training program for employees new to thousands-block number pooling activities. MCI shall conduct training sessions for any new employee involved with number pooling within 30 days of the employee's assignment to number pooling activities. MCI shall conduct training sessions for all effected employees at least annually to ensure compliance with the Act and FCC policies and rules.

(e) Compliance Manual.

MCI shall within sixty days of the Effective Date develop and update as necessary a Compliance Manual on thousands-block number pooling. MCI personnel shall have ready access to the Compliance Manual and must follow the procedures contained in it. The manual shall, among other things, describe the North American Numbering Plan and Thousands-Block Number Pooling Administration Guidelines and how they apply to MCI.

(f) Termination.

Except as otherwise stated, the requirements of paragraph 12 shall expire twenty-four months from the Effective Date.

13. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation. In express reliance on the covenants and representations contained herein, and in order to avoid the potential expenditure of additional public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of this Investigation, MCI agrees to the terms, conditions, and procedures contained herein. The Bureau agrees that, in the absence of new material evidence related to this matter, it will not use the facts developed in the Investigation or the existence of the Consent Decree, to initiate, on its own motion, any new proceedings, formal or informal, or take any

actions on its own motion against MCI concerning the matters that were the subject of this Investigation. In addition, the Bureau will not, on its own motion, seek any administrative or other penalties from MCI concerning MCI's compliance with the Commission's orders and regulations regarding reporting, forecasting, return, and donation of numbers for MCI's activities, including any potential violations of such orders and regulations, during or prior to the Donation Period plus any applicable extension, as long as MCI complies with the requirements set forth in subparagraphs 12(a), 12(b) and 12(c) above. Nothing in this paragraph shall limit the Commission's authority to enforce this Consent Decree in accordance with its terms, nor shall anything in this Consent Decree limit the Commission's authority to consider and adjudicate any formal complaint that may be filed pursuant to section 208 of the Act, 47 U.S.C. Section 208, and to take any action in response to such complaint.

14. Except as provided herein, nothing in this Consent Decree shall alter MCI's obligation to comply with the Act and with the Commission's rules and orders.

15. MCI waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Order adopts the Consent Decree without change, addition, or modification.

16. MCI's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Adopting Order.

17. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

18. The Parties also agree that if any provision of this Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which MCI does not consent) that provision will be superseded by such Commission rule or order.

19. By this Consent Decree, MCI does not waive or alter its right to assert and seek protection from disclosure of any privileged or otherwise confidential and protected documents and information, or to seek appropriate safeguards of confidentiality for any competitively sensitive or proprietary information. The status of materials prepared for, reviews made and discussions held in the preparation for and implementation of MCI's compliance efforts under this Consent Decree, which would otherwise be privileged or confidential, are not altered by the execution or implementation of the terms of this Consent Decree, and no waiver of such privileges is made by this Consent Decree. Nothing in this Consent Decree shall be deemed to prejudice MCI's rights to seek exemption from disclosure pursuant to the Freedom of Information Act and the Commission's implementing regulations for documents provided by MCI to the Commission, or for MCI to contest any request for disclosure of agency records relating to the subject of this Consent Decree.

20. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither MCI nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and MCI and the Commission will waive any statutory right to a trial *de novo* with respect to the issuance of the Adopting Order and shall consent to a judgment incorporating the terms of this Consent Decree.

21. MCI agrees that any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission, or its delegated authority, to exercise any rights or remedies attendant to the enforcement of a Commission order.

22. This Consent Decree may be signed in counterparts.

For: MCI, Inc.

Date

Fred Briggs
President of Operations and Technology
MCI, Inc.

For: Enforcement Bureau
Federal Communications Commission

Date

David H. Solomon
Chief, Enforcement Bureau